

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

BILLIE RODRIGUEZ, DANIEL ERWIN,
MICHAEL B. ACKERMAN, KYLE
FOREMAN, DREW SCRUGGS, MARY
KANE MCQUEENY, EMILY THORPE,
JENNIFER TRITT, and THE BOARD OF
COUNTY COMMISSIONERS OF THE
COUNTY OF FORD, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

EXXON MOBIL CORPORATION,
CHEVRON USA INC., CHEVRON PHILLIPS
CHEMICAL CORPORATION, DUPONT de
NEMOURS, INC., CELANESE
CORPORATION, DOW INC., DOW
CHEMICAL COMPANY, EASTMAN
CHEMICAL COMPANY,
LYONDELLBASELL INDUSTRIES, N.V.,
and AMERICAN CHEMISTRY COUNCIL,

Defendants,

And

STATE OF KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Defendant-Intervenor.

Civil Action No. 4:24-00803

The Honorable Stephen R. Bough

ORAL ARGUMENT REQUESTED

AMERICAN CHEMISTRY COUNCIL, INC.'S MOTION TO DISMISS UNDER RULE 12(B)(6)

In addition to fully joining the joint motions to dismiss, pursuant to this Court's order granting the Joint Motion for Extension of Time, Docket 58, Defendant the American Chemistry Council, Inc. ("ACC") moves pursuant to Federal Rule of Procedure 12(b)(6) to dismiss Count 5

of Plaintiffs' Amended Complaint.¹ This motion is supported by ACC's Suggestions in Support.

ACC is not a merchant of plastics or plastics resin—it is a trade association. Plaintiffs' allegations specific to ACC recognize ACC's status. But Plaintiffs lose sight of this fact in their scattershot, generalized group pleading approach, ultimately resulting in Plaintiffs' unsupported allegation of violation of the District of Columbia Consumer Protection Procedures Act, which requires a “merchant-consumer” relationship.

For the reasons expressed in ACC's Suggestions in Support, ACC respectfully requests that this Court dismiss Count 5 of Plaintiffs' Amended Complaint against ACC.

Dated: March 10, 2025

Respectfully submitted,

By: /s/ David L. Anderson

David L. Anderson (admitted *pro hac vice*)
dlanderson@sidley.com
Sheila A.G. Armbrust (admitted *pro hac vice*)
sarmbrust@sidley.com
David A. Goldenberg (admitted *pro hac vice*)
dgoldenberg@sidley.com
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 772-1200

Zachary J. Parker (SBN 71120)
zparker@sidley.com
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
Telephone: (312) 853-7000

**ATTORNEYS FOR DEFENDANT
AMERICAN CHEMISTRY COUNCIL,
INC.**

¹ ACC does not submit to the personal jurisdiction of this Court. Rather, ACC joined the jointly filed Motion to Dismiss Pursuant to Rule 12(b)(2) as its “first responsive pleading,” thereby preserving that defense. *See, e.g., Blessing v. Chandrasekhar*, 988 F.3d 889, 899 (6th Cir. 2021).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 10, 2025, I electronically filed the above and foregoing document via the Court's CM/ECF system, which will send notification of said filing to all counsel of record.

/s/ David L. Anderson

David L. Anderson

**ATTORNEY FOR DEFENDANT
AMERICAN CHEMISTRY COUNCIL,
INC.**